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VIA ECF

The Honorable Ronnie Abrams
United States District Judge
Southern District of New York
40 Foley Square, Room 2203
New York, NY 10007

Re: Jennifer Eckhart and Cathy Areu v. Fox News Network, LLC, Ed Henry, Sean Hannity, Tucker Carlson, and Howard Kurtz, Civil Case No. 1:20-cv-05593 (RA)

Dear Judge Abrams

On behalf of Fox News Network, LLC, Tucker Carlson, Sean Hannity and Howard Kurtz (the “Fox News Defendants”), we write pursuant to Federal Rule of Civil Procedure 15(a)(3) to request an extension of time to file an Answer, or otherwise respond, to Plaintiffs’ Amended Complaint. (Dkt. No. 38.) The Fox News Defendants seek an extension to October 19, 2020, fourteen (14) days after the conference set by the court to address outstanding issues. (Dkt. No. 44.) Under current deadlines set by Fed. R. Civ. P. 15(a)(3), the Fox News Defendants’ Answer or response to the Amended Complaint is due on September 25, 2020. The Fox News Defendants have not previously sought any extensions of time in this case.

It is unclear whether counsel for Plaintiffs Eckhart and Plaintiff Areu consent to this request. Counsel for Plaintiff Areu yesterday originally advised that Areu would oppose Defendants’ request if it was the intention of the Fox News Defendants’ to file a Rule 11 motion. We advised that our clients were not abandoning that right. Counsel for Areu and Eckhart then stated that they would consent to the requested extension to respond to the Amended Complaint but were not agreeing to extend Defendants time to file its Rule 11 motion. In reply, we noted that there is no deadline for the filing of a Rule 11 motion but that, consistent with current case law, we intended to file the Rule 11 motion “promptly.” Counsel for Areu replied that we misunderstood the consent of counsel for plaintiffs. To avoid confusion, we requested a written clarification of plaintiffs’ positions by this morning. We have received no response.

While Plaintiffs sanctionable conduct will be addressed in a separate motion, the sanctions motion has no bearing on whether this extension is warranted. Notably, on July 20, 2020 the Fox News Defendants received the original Complaint (Dkt. No. 1) which contained 39 pages and 201 paragraphs. Nonetheless, after having executed a waiver of service, the Fox News Defendants had until September 25, 2020 to Answer or otherwise respond to the initial Complaint. Now, after Plaintiffs have newly filed a *57-page* Amended Complaint containing 307 paragraphs, the Fox News Defendants require more than fourteen days to properly respond.

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(See Dkt Nos. 1, 38.) Therefore, the Fox News Defendants request until October 19, 2020 to be able to properly address the newly expanded Amended Complaint.

Further, Plaintiffs have had extensive time to revise and expand their Complaint. Specifically, the Plaintiffs were provided with a twenty-one day safe harbor period after receipt of the Fox News Defendants' Rule 11 motion for sanctions on August 7, 2020. This period was further expanded to September 11, 2020 when Plaintiff Areu sought, and was granted, an extension. (Dkt. No. 32.) The Amended Complaint is clearly the product of extensive edits, putative corrections and embellishments added long after the original Complaint was filed, and the Fox News Defendants therefore request an extension to be able to properly address these changes.

Finally, the Fox News Defendants note that their motions to dismiss will likely be impacted by the outcome of the conference on October 5, 2020, particularly as relates to severance.

Therefore, for the reasons set forth above, the Fox News Defendants respectfully request that the Court grant them until October 19, 2020, to file an Answer or otherwise respond to the Amended Complaint (Dkt. No. 38).

Respectfully submitted,

/s/ *Kathleen M. McKenna*

Kathleen M. McKenna, Esq.
Attorneys for Fox Defendants

cc: All counsel of record (via ECF)